

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL ALLEN PERRY,

Defendant.

Case No. 2:10-CR-00280-KJD-GWF

AMENDED ORDER

Presently before the Court is Defendant's Motion to Terminate Supervised Release (#254). On October 4, 2016, the Court ordered the Government to respond to Defendant's motion and warned the Government that failure to respond would be considered consent to the granting of the motion. Though the time for doing so has passed, the Government has not opposed Defendant's motion.

A district court enjoys "broad discretion" when, after it takes into account the statutorily required factors, it discharges a defendant's supervised release. United States v. Jeanes, 150 F.3d 483, 484 (5th Cir. 1998). The defendant, however, bears the burden of demonstrating that early termination of his supervised release is justified. See United States v. Weber, 451 F.3d 552, 559 n. 9 (9th Cir. 2006). Title 18 U.S.C. § 3583(e) states:

1 (e) **Modification of conditions or revocation.** The court may, after considering the
 2 factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5),
 (a)(6), and (a)(7)

3 (1) terminate a term of supervised release and discharge the defendant released at any
 4 time after the expiration of one year of supervised release, pursuant to the provisions
 of the Federal Rules of Criminal Procedure relating to the modification of probation,
 5 if it is satisfied that such action is warranted by the conduct of the defendant released
 and the interests of justice[.]

6 The Court has considered the following factors under 18 U.S.C. §§ 3553(a): (1) the nature
 7 and circumstances of the offense and the history and characteristics of the defendant; (2) deterrence;
 8 (3) protection of the public; (4) the need to provide the defendant with educational, vocational
 9 training, medical care or other rehabilitation; (5) the sentence and sentencing range established for
 10 the category of defendant; (6) any pertinent policy statement by the Sentencing Commission; (7) the
 11 need to avoid unwarranted sentence disparities among defendants with similar records who have
 12 been found guilty of similar conduct; and (8) the need to provide restitution to any victims of the
 13 offense. See 18 U.S.C. §§ 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).

14 Here, Defendant has met his burden in demonstrating that early termination of supervised
 15 release is justified. On September 17, 2012, Defendant was adjudicated guilty of conspiracy to
 16 commit wire fraud. He was sentenced to 15 months imprisonment followed by five years of
 17 supervised release. He has served his term of confinement and thirty-four (34) months of supervised
 18 release. Defendant has not violated the conditions of his supervised release. He has maintained
 19 stable employment and residence. The only objection raised by probation is that Defendant still owes
 20 restitution. However, means exists to ensure that Defendant continues to pay restitution.

21 Therefore, having considered the statutory factors, the Court finds that in the interest of
 22 justice and being warranted by the conduct of Defendant, that his term of supervised release is hereby
 23 terminated immediately.

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1 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion for Early Termination of
2 Supervised Release (#254) is **GRANTED**.

3 DATED this 27th day of December 2016.
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8 Kent J. Dawson
9 United States District Judge
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